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2 AN NGUYEN RUDA (SBN 215453) (ahn@jmbm.com)
SEAN B. GIBBONS (SBN 263818) (sbg@jmbm.com)
3 1900 Avenue of the Stars, Seventh Floor
Los Angeles, California 90067-4308
Telephone: (310) 203-8080
4 Facsimile: (310) 203-0567

5 Attorneys for Defendant Ghilotti Bros. Inc.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

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11 JOSE RAMIREZ, LUIS GOMEZ, and
MARCK MENA ORTEGA on behalf of
themselves and all other persons similarly
situated,

12 Plaintiffs,

13 v.

14 GHILOTTI BROS, INC., a corporation; and
15 DOES 1 through 50, inclusive,

16 Defendants.

17 CASE NO. 3:12-cv-04590

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**DECLARATION OF AN NGUYEN RUDA
IN SUPPORT OF DEFENDANT GHILOTTI
BROS., INC'S OPPOSITION TO
PLAINTIFFS' MOTION TO STRIKE ALL
AFFIRMATIVE DEFENSES IN ITS
ANSWER**

Judge: Hon. Charles R. Breyer
Date: March 29, 2013
Time: 10:00 A.M.
Crtrm: 6, 17th Floor

DECLARATION OF AN NGUYEN RUDA

I, An Nguyen Ruda, do hereby declare and state as follows:

1. I am an attorney duly licensed to practice law before all courts of the State of California. I am a partner of the law firm of Jeffer Mangels Butler & Mitchell LLP, attorneys of record for Defendant Ghilotti Bros., Inc. ("GBI") in the above-entitled matter. I have personal knowledge of what is stated in this declaration and, if called upon to testify, I could and would testify competently thereto.

2. On December 20, 2012, I conducted the deposition of Plaintiff Jose Ramirez, which deposition was transcribed by Coal Corey (C.S.R. No. 10699) of Atkinson-Baker Court Reporters, Inc. True and correct copies of the cover page of the transcript of that deposition and the court reporter's certificate are attached hereto as Exhibit "A."

3. On December 20, 2012, I conducted the deposition of Plaintiff Marck Mena Ortega, which deposition was transcribed by Ora B. Kohn (C.S.R. No. 11933) of Atkinson-Baker Court Reporters, Inc. True and correct copies of the cover page of the transcript of that deposition and the court reporter's certificate are attached hereto as Exhibit "B."

4. On December 19, 2012, I conducted the deposition of Plaintiff Luis Gomez, which deposition was transcribed by Ora B. Kohn (C.S.R. No. 11933) of Atkinson-Baker Court Reporters, Inc. True and correct copies of the cover page of the transcript of that deposition and the court reporter's certificate are attached hereto as Exhibit "C."

5. On December 11, 2012, I was present and defended Michael Mario Ghilotti in his capacity as Person Most Knowledgeable for GBI, which deposition was transcribed by Mary E. Garland (C.S.R. No. 4721) of Capital Reporting Company. True and correct copies of the cover page of the transcript of that deposition, and the court reporter's certificate are attached hereto as Exhibit "D." A true and correct copy of Plaintiffs Notice of that deposition, including attendant Requests for Production to which we responded, is attached hereto as Exhibit "E."

6. Plaintiff has propounded and my office has responded to eight requests for production of documents from Plaintiff Ortega, eight from Plaintiff Gomez, and sixty-one from Plaintiff Ramirez. True and correct copies of the requests are attached hereto as Exhibit "F."

7. On January 11, 2013, the parties engaged in mediation in front of the Honorable William J. Cahill.

8. I and my office have personally spoken to Plaintiffs counsel several times with regard to substantial discovery issues.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct and that this Declaration was executed on this, the first day of March, 2013, at Los Angeles, California.

By: /s/ An Nguyen Ruda
AN NGUYEN RUDA

Exhibit "A"

Jose Ramirez

December 20, 2012

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1 UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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4
5 JOSE RAMIREZ, LUIS GOMEZ, and)
6 MARCK MENA ORTEGA, on behalf of)
themselves and all other persons)
similarly situated,)
7)
8 Plaintiffs,)
vs.) No. C 12-04590 JSC
9)
10 GHILOTTI BROS., INC., a corporation;)
GHILOTTI BROTHERS CONSTRUCTION,)
INC., a corporation, and DOES)
11 1 through 50, inclusive,)
Defendants.)
12)
13
14 DEPOSITION OF
15 JOSE RAMIREZ
16 SAN FRANCISCO, CALIFORNIA
17 December 20, 2012
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19
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21 ATKINSON-BAKER, INC.
COURT REPORTERS
www.depo.com
800-288-3376
22
23
24 REPORTED BY: CORAL COREY, CSR NO. 10699
25 FILE NO: A60B7DD

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REPORTER'S CERTIFICATE

I, CORAL COREY, CSR No. 10699, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were taken before
me at the time and place therein set forth, at which time
the witness was put under oath by me;

That the testimony of the witness, the questions
propounded, and all objections and statements made at the
time of the examination were recorded stenographically by
me and were thereafter transcribed;

That the foregoing is a true and correct
transcript of my shorthand notes so taken.

I further certify that I am not a relative or
employee of any attorney of the parties, nor financially
interested in the action.

I declare under penalty of perjury under the laws
of California that the foregoing is true and correct.

Dated this

JAN 8 , 2013.

Coral Corey

CORAL COREY, C.S.R. No. 10699

Exhibit "B"

1 UNITED STATES DISTRICT COURT
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3 NORTHERN DISTRICT OF CALIFORNIA
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JOSE RAMIREZ, LUIS GOMEZ, AND)
MARCK MENA ORTEGA ON BEHALF OF)
THEMSELVES AND ALL OTHER PERSONS)
SIMILARLY SITUATED)
Plaintiffs,)
vs.) CASE: C12-04590 JSC
GHILOTTI BROS, INC., A)
CORPORATION; GHILOTTI BROTHERS)
CONSTRUCTION, INC., A)
CORPORATION, AND DOES 1 THROUGH)
50, INCLUSIVE,)
Defendants.)
)

VIDEOTAPED DEPOSITION OF MARCK MENA ORTEGA

SAN FRANCISCO, CALIFORNIA

FRIDAY, DECEMBER 14, 2012

ATKINSON-BAKER, INC.
COURT REPORTERS
800.288.3376
WWW.DEPO.COM

Reported By: Ora B. Kohn, CSR 11933

File No. A60B7DC

STATE OF CALIFORNIA)

) SS

COUNTY OF CONTRA COSTA)

I, ORA B. KOHN, Certified Shorthand

Reporter, do hereby certify:

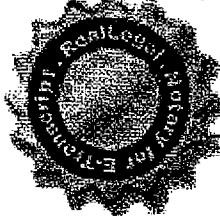
That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That said proceedings were taken before me at the time and place therein set forth and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision.

I further certify that I am neither counsel for, nor related to, any parties to said proceedings, nor in any way interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name.

Dated: December 26, 2012



ORA B. KOHN, CSR 11933

A handwritten signature of Ora B. Kohn in black ink.

(SIGNATURE NOT REQUESTED)

Exhibit "C"

A60B7DE
LUIS GOMEZ DECEMBER 19, 2012

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
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4 ---oo---

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6 JOSE RAMIREZ, LUIS GOMEZ, AND)
7 MARCK MENA ORTEGA ON BEHALF OF)
THEMSELVES AND ALL OTHER PERSONS)
SIMILARLY SITUATED)
8)
Plaintiffs,)
9) vs.) CASE: C12-04590 JSC
10)
11 GHILOTTI BROS, INC., A)
CORPORATION; GHILOTTI BROTHERS)
CONSTRUCTION, INC., A)
CORPORATION, AND DOES 1 THROUGH)
50, INCLUSIVE,)
12)
13 Defendants.)
14)
15)
16)
17 VIDEOTAPED DEPOSITION OF LUIS GOMEZ
18 SAN FRANCISCO, CALIFORNIA
19 WEDNESDAY, DECEMBER 19, 2012
20
21 ATKINSON-BAKER, INC.
COURT REPORTERS
22 800.288.3376
WWW.DEPO.COM
23
24 Reported By: Ora B. Kohn, CSR 11933
25 File No. A60B7DE

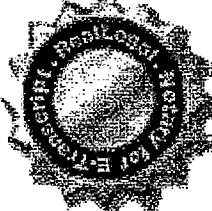
1 STATE OF CALIFORNIA)
2) SS
3 COUNTY OF CONTRA COSTA)
4 I, ORA B. KOHN, Certified Shorthand
5 Reporter, do hereby certify:
6 That prior to being examined, the witness in the
7 foregoing proceedings was by me duly sworn to testify
8 to the truth, the whole truth, and nothing but the
9 truth.
10 That said proceedings were taken before me at
11 the time and place therein set forth and were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction and supervision.
14 I further certify that I am neither counsel
15 for, nor related to, any parties to said proceedings,
16 nor in any way interested in the outcome thereof.
17 In witness whereof, I have hereunto
18 subscribed my name.
19
20 Dated: January 2, 2013
21
22 
23 ORA B. KOHN, CSR 11933
24
25 (SIGNATURE REQUESTED)

Exhibit "D"

Capital Reporting Company

1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSE RAMIREZ, LUIS GOMEZ, and No. C-12-4590-CRB
MARCK MENA ORTEGA on behalf
of themselves and all persons
similarly situated,

Plaintiffs,

vs.

GHILOTTI BROS., INC., a
corporation; GHILOTTI BROTHERS
CONSTRUCTION, INC., a corporation;
and DOES 1 to 50, inclusive,

Defendants.

/

VIDEOTAPED DEPOSITION OF MICHAEL MARIO GHILOTTI

VOLUME I

DATE: December 11, 2012
TIME: 9:43 a.m.
LOCATION: ROSEN BIEN GALVAN & GRUNFELD
315 Montgomery Street
Tenth Floor
San Francisco, California
REPORTED BY: Mary E. Garland
Certified Shorthand Reporter
License Number 4721

2

1 A P P E A R A N C E S

2

3 For the Plaintiffs:

4 GAY CROSTHWAIT GRUNFELD, ESQ.
5 JENNY S. YELIN, ESQ.
6 ROSEN BIEN GALVAN & GRUNFELD
7 315 Montgomery Street
Tenth Floor
San Francisco, California 94104-1823
(415) 433-6830

8

9 For the Defendants:

10 AN NGUYEN RUDA, ESQ.
11 JEFFER MANGELS BUTLER & MITCHELL
12 1900 Avenue of the Stars
Seventh Floor
Los Angeles, California 90067-4308
(310) 203-8080

13

14

Also Present:

15

16 Sean McGrath, Video Technician
Stephanie Taylor

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1 CERTIFICATION OF DEPOSITION OFFICER
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4 I, MARY E. GARLAND, duly authorized to
5 administer oaths pursuant to Section 2093 (b) of the
6 California Code of Civil Procedure, do hereby certify
7 that the witness in the foregoing deposition was duly
8 sworn by me to testify to the truth, the whole truth
9 and nothing but the truth in the within-entitled cause;
10 that said deposition was taken at the time and place
11 therein stated; that the testimony of said witness was
12 thereafter transcribed by means of computer-aided
13 transcription under my direction; that the foregoing is
14 a full, complete and true record of said testimony.
15 And that the witness was given an opportunity to read
16 and correct said deposition and to subscribe to the
same.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties in the
19 foregoing deposition and caption named, nor in any way
20 interested in the outcome of the cause named in said
21 caption.

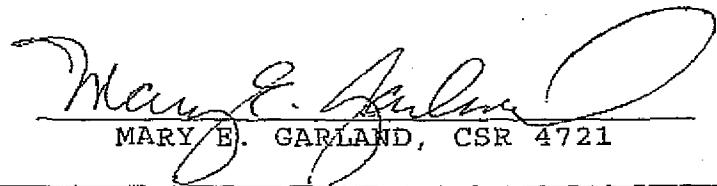
22
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25 
MARY E. GARLAND, CSR 4721

Exhibit "E"

1 GAY CROSTHWAIT GRUNFELD - 121944
2 KATHRYN G. MANTOAN - 239649
3 JENNY S. YELIN - 273601
4 ROSEN BIEN GALVAN & GRUNFELD LLP
5 315 Montgomery Street, Tenth Floor
6 San Francisco, California 94104-1823
7 Telephone: (415) 433-6830
8 Facsimile: (415) 433-7104
9 Email: ggrunfeld@rbgg.com
10 kmantoan@rbgg.com
11 jyelin@rbgg.com

12 ELISA J. STEWART - 219557
13 WENDY E. MUSELL - 203507
14 STEWART & MUSELL, LLP
15 351 California Street, Suite 700
16 San Francisco, California 94104
17 Telephone: (415) 593-0083
18 Facsimile: (415) 520-0920
19 Email: estewart@stewartandmusell.com
20 wmusell@stewartandmusell.com

21 Attorneys for Plaintiffs

22

23 UNITED STATES DISTRICT COURT
24 NORTHERN DISTRICT OF CALIFORNIA

25 JOSE RAMIREZ, LUIS GOMEZ, and
26 MARCK MENA ORTEGA on behalf of
27 themselves and all persons similarly
28 situated,

Plaintiffs,

v.

Defendants.

Case No. C-12-4590-CRB

NOTICE OF FED. R. CIV. P. 30(b)(6)
DEPOSITION OF GHILOTTI BROS.,
INC. AND REQUEST FOR
PRODUCTION OF DOCUMENTS

Judge: Hon. Charles R. Breyer

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of
 3 Civil Procedure, Plaintiffs, by their attorneys, will take the deposition of Ghilotti Bros.,
 4 Inc.'s ("GBI") person(s) most knowledgeable regarding the following subjects:

5 1. GBI's computer and computer systems, including all servers, networks,
 6 programs, cellular telephones, mobile devices, word processing, presentations, electronic
 7 mail, audio and video files, personal information managers, calendars, databases, and
 8 spreadsheet programs and other electronic data used by GBI to record, store, compute,
 9 analyze or retrieve information regarding the work, activities, meal and rest breaks, and
 10 compensation of GBI employees.

11 2. The systems used by GBI to dispatch laborers and equipment to construction
 12 job sites or projects.

13 3. GBI's policies, practices, and procedures regarding assignment of laborers to
 14 construction job sites or projects.

15 4. The systems used by GBI to identify, track, or manage the physical locations
 16 of construction job sites or projects.

17 5. The systems used by GBI to identify, track or manage the assignment of
 18 laborers to drive trucks owned, operated, or used by GBI.

19 6. The systems used by GBI to identify, track, or manage the assignment of
 20 trucks owned, operated, or used by GBI to construction job sites or projects and the times
 21 such trucks leave and return to any GBI yard, including but not limited to the yards located
 22 at 525 Jacoby Street in San Rafael, California, 4999 Lakeville Highway in Petaluma,
 23 California, 739 Cresco Court in Santa Rosa, California, and 115 Brookside Drive in
 24 Richmond, California.

25 7. GBI's policies, practices, and procedures regarding employees' access to any
 26 GBI yard, including but not limited to the yards located at 525 Jacoby Street in San Rafael,
 27 California, 4999 Lakeville Highway in Petaluma, California, 739 Cresco Court in Santa
 28 Rosa, California, and 115 Brookside Drive in Richmond, California.

1 8. GBI's policies, practices, and procedures regarding how employees' hours
2 worked are recorded and maintained.

3 9. GBI's policies, practices, and procedures regarding how employees' meal
4 and rest breaks are recorded and maintained.

5 10. GBI's policies, practices, and procedures regarding the ability of supervisors
6 to alter timekeeping and meal and rest break records of employees.

7 Pursuant to Federal Rule of Civil Procedure 30(b)(6), GBI must designate
8 individuals to testify about information known or reasonably available to GBI on each of
9 these subjects.

10 The deposition will commence at 9:30 a.m. on November 28, 2012 at Rosen Bien
11 Galvan & Grunfeld, 315 Montgomery Street, 10th Floor, San Francisco, CA 94104. If not
12 completed on the specified date, the deposition will continue from day-to-day, excluding
13 Sundays and holidays, until such date as is necessary to complete the deposition. The
14 deposition shall be recorded by stenographic means and may also be videotaped.

15 **REQUEST FOR PRODUCTION OF DOCUMENTS**

16 PLEASE TAKE FURTHER NOTICE pursuant to Federal Rule of Civil Procedure
17 30(b)(2) and 34, that the deponent(s) is required to produce the following documents at the
18 deposition for copying and inspection at 315 Montgomery Street, 10th Floor,
19 San Francisco, CA 94104 at 9:30 a.m. on November 21, 2012.

20 **INSTRUCTIONS**

21 In responding to this Request for Production of Documents, you are requested to
22 furnish all documents which are in your possession, custody or control, including
23 information in the possession of your attorneys, or other persons directly or indirectly
24 employed or retained by you, or connected with you or your attorneys, or anyone else
25 acting on your behalf or otherwise subject to your control.

26 Pursuant to Federal Rule of Civil Procedure 34(b)(2)(E), all responsive documents
27 are required to be produced either: (a) as they are kept in the usual course of business
28 (together with copies of any file labels or binder covers for the files or binders in which

1 they are maintained); or (b) organized and labeled to correspond with the specific request
 2 to which they respond.

3 In responding to this Request for Production of Documents, if any responsive
 4 document is maintained electronically, the document shall be produced on disc in native
 5 format and with metadata intact. You are also requested to furnish print-outs of documents
 6 which may not currently exist in "hard copy" paper form but which exist in electronic form
 7 as electronic mail or as a document or file generated by word processing, data base or
 8 spreadsheet software, and which are stored electronically on a "floppy" disc, a compact
 9 disc, a zip drive, a personal computer hard drive, a network server, a back-up tape or disc,
 10 or any other electronic medium.

11 If an electronically-generated document does not currently exist as a "hard copy"
 12 and if it has been deleted from the hard drives of personal computers, you are requested to
 13 retrieve it from any other electronic medium (e.g., a network server or a backup tape disc)
 14 from which it is retrievable.

15 If you cannot respond to any document request in full, respond to the fullest extent
 16 possible, explain why you cannot respond to the remainder, and describe the nature of the
 17 documents which you cannot furnish.

18 **DEFINITIONS**

19 1. "GHILOTTI BROS." or "DEFENDANT" means Ghilotti Bros., Inc.

20 2. The term "YOU" or "YOUR" means GHILOTTI BROS. or anyone acting on
 21 its behalf.

22 3. "GHILOTTI BROTHERS CONSTRUCTION" means Ghilotti Brothers
 23 Construction, Inc.

24 4. The term "CONCERNING" or "CONCERN" means referring to, alluding to,
 25 relating to, connected with, commenting upon, in respect of, about, regarding, discussing,
 26 reflecting, analyzing, evaluating, summarizing, touching upon, or constituting.

27 5. The term "CLASS PERIOD" means the period from June 27, 2008 through
 28 the present.

1 6. The term "AFFECTED EMPLOYEE" or "AFFECTED EMPLOYEES"
 2 refers to individuals employed by YOU in California now or during the CLASS PERIOD
 3 who work or have worked at a construction site or at YOUR yards, including those located
 4 at 525 Jacoby Street in San Rafael, California, 4999 Lakeville Highway in Petaluma,
 5 California, 739 Cresco Court in Santa Rosa, California, and 115 Brookside Drive in
 6 Richmond, California, or doing construction work as a laborer or in a similar capacity,
 7 even if on "light duty."

8 7. The term "DOCUMENT" means any writing, however produced or
 9 reproduced, of every kind and regardless of where located, which is in YOUR possession,
 10 custody, or control; or in the possession, custody or control of any servant or agent of
 11 YOU or of YOUR attorneys. The terms include the following: electronically recorded
 12 information such as electronic mail ("email"), html files, databases, data processing cards
 13 or tapes, computerized data, computer diskettes, or information otherwise contained on a
 14 computer's hard drive, disks or backup tapes; video tapes, audio tapes, view-graphs, or any
 15 information maintained on digital, electronic, magnetic or other media; and any other
 16 summary, schedule, memorandum, note, statement, letter, telegram, interoffice
 17 communication, report, diary, worksheet, list, graph, chart, or index, tape record, partial or
 18 complete report of telephone or oral conversation, transcript or minutes, compilation,
 19 tabulation, study, analysis, or other such writing or recording. The terms "DOCUMENT"
 20 and "DOCUMENTS" include any originals, all file copies, all other copies, no matter how
 21 prepared, and all drafts prepared in connection with such DOCUMENTS, whether or not
 22 used, as well as the file in which the DOCUMENTS are maintained. A draft or non-
 23 identical copy of a DOCUMENT, including a copy or duplicate of a DOCUMENT which
 24 has any nonconforming notes, marginal annotations or other markings, and any
 25 preliminary version, draft or revision of the foregoing, is a separate DOCUMENT within
 26 the meaning of these terms. The term "DOCUMENT" does not include any writing that
 27 constitutes a communication between YOU and YOUR attorneys. The term DOCUMENT
 28 includes any associated METADATA and any NATIVE FORMAT of the DOCUMENT.

1 8. The term "METADATA" means the data found within DOCUMENTS. It
2 includes all electronically-stored information that describes or defines the DOCUMENT
3 that is not generally visible in the ordinary electronic display or printing of the document.
4 Common examples include comments, markups and revisions, author name, owner name,
5 names of those who have edited the document, creation dates, edit dates, and other
6 information, including but not limited to records of past versions and drafts.

7 9. The term "NATIVE FORMAT" as it relates to the production of electronic
8 data means the file format in which the DOCUMENT is ordinarily read and written by its
9 related software application. For example, a Microsoft Word 2003 document has a
10 NATIVE FORMAT of .doc.

11 10. "ANY" and "ALL," as used herein, shall include "each" and "every" and are
12 not to be construed to limit a request.

SCOPE OF DISCOVERY

14 Unless otherwise stated in a specific discovery request, these requests for the
15 production of DOCUMENTS shall be deemed to cover the time period from June 27, 2008
16 to the present.

17 1. All requests phrased in either the disjunctive ("or") or conjunctive ("and") or
18 both, should be interpreted in the manner that makes YOUR response inclusive rather than
19 exclusive.

20 2. To the extent that any DOCUMENT requested herein is maintained by YOU
21 in electronic format, such DOCUMENT should be produced in its NATIVE FORMAT
22 (with METADATA intact).

23 3. To the extent that any DOCUMENT requested has already been produced in
24 response to a previous request, YOU need not produce the DOCUMENT a subsequent
25 time and may refer to it by Bates stamp number or other unique identifier.

OBJECTIONS AND DOCUMENTS WITHHELD

27 1. If YOU object to part of a DOCUMENT request and refuse to answer that
28 part, state YOUR objection and respond to the remaining portion of that DOCUMENT

1 request. If YOU object to the scope or time period of a DOCUMENT request and refuse
 2 to respond for that scope or time period, state YOUR objection and respond to the
 3 DOCUMENT request for the scope or time period YOU believe is appropriate.

4 2. With respect to any requested DOCUMENT that YOU refuse to produce in
 5 response to these Requests for Production on the basis of any asserted privilege, please
 6 state:

- 7 a. the full identity of the DOCUMENT including:
 - 8 i. date of the DOCUMENT;
 - 9 ii. its title (if any);
 - 10 iii. its authors, addressees, recipients or parties;
 - 11 iv. the nature of the DOCUMENT (e.g., letter, memorandum,
etc.);
 - 12 v. the individual or source from whom or which YOU obtained it;
and
 - 13 vi. its present location and identity of its custodian;
- 14 b. whether YOUR objection or refusal is directed to the entire
DOCUMENT or part thereof;
- 15 c. if YOUR objection or refusal goes to part of the DOCUMENT,
specify the specific part(s) of the DOCUMENT to which YOUR
objection or refusal is directed; and
- 16 d. the specific factual basis which gives rise to the objection or refusal
and the specific legal ground on which the objection or refusal is
based.

17 3. If any of the following requested DOCUMENTS cannot be located or
 18 produced after exercising due diligence to secure the information, please so state and
 19 respond to the extent possible, specifying YOUR inability to respond fully, and stating
 20 whatever information YOU have CONCERNING the non-produced DOCUMENTS. If
 21 YOUR response is qualified in any particular manner, please set forth the details of such

1 qualification.

2 **DOCUMENT REQUESTS**

3 **DOCUMENT REQUEST 1:**

4 ANY and ALL DOCUMENTS sufficient to identify the nature and extent of YOUR
5 computer and computer systems, including all servers, networks, cellular telephones,
6 mobile devices, word processing, presentations, electronic mail, audio and video files,
7 personal information managers, calendars, databases, and spreadsheet programs and other
8 electronic data, used by YOU to record, store, compute, analyze or retrieve information
9 referring or relating to the work, activities, meal and rest periods taken, and compensation
10 of AFFECTED EMPLOYEES at any time during the CLASS PERIOD.

11 **DOCUMENT REQUEST 2:**

12 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
13 procedures, if any, in effect since June 27, 2008 CONCERNING how AFFECTED
14 EMPLOYEES record time worked.

15 **DOCUMENT REQUEST 3:**

16 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
17 procedures, if any, in effect since June 27, 2008 CONCERNING how AFFECTED
18 EMPLOYEES record meal and rest breaks.

19 **DOCUMENT REQUEST 4:**

20 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
21 procedures for maintaining records of the hours worked by AFFECTED EMPLOYEES
22 during the CLASS PERIOD.

23 **DOCUMENT REQUEST 5:**

24 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
25 procedures for maintaining records of the meal and rest breaks taken by AFFECTED
26 EMPLOYEES during the CLASS PERIOD.

27 **DOCUMENT REQUEST 6:**

28 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and

1 procedures during the CLASS PERIOD CONCERNING the ability of supervisors to alter
2 timekeeping or meal or rest break records of AFFECTED EMPLOYEES.

3 **DOCUMENT REQUEST 7:**

4 ANY and ALL bulletins, posters, or other DOCUMENTS posted at any job site or
5 location since June 27, 2008 CONCERNING the recordation of time worked.

6 **DOCUMENT REQUEST 8:**

7 ANY and ALL bulletins, posters, or other DOCUMENTS posted at any job site or
8 location since June 27, 2008 CONCERNING the recordation of travel time.

9 **DOCUMENT REQUEST 9:**

10 ANY and ALL bulletins, posters, or other DOCUMENTS posted at any job site or
11 location since June 27, 2008 CONCERNING meal breaks AND/OR rest periods.

12 **DOCUMENT REQUEST 10:**

13 YOUR DOCUMENT retention policy, including with respect to electronic
14 DOCUMENTS.

15 **DOCUMENT REQUEST 11:**

16 ANY and ALL DOCUMENTS CONCERNING the dates and times since June 27,
17 2008, ANY trucks or other vehicles owned, used, or operated by GHILOTTI BROS.
18 entered or exited ANY GHILOTTI BROS. yard, including but not limited to the yards
19 located at 525 Jacoby Street in San Rafael, California, 4999 Lakeville Highway in
20 Petaluma, California, 739 Cresco Court in Santa Rosa, California, and 115 Brookside
21 Drive in Richmond, California, and the assigned destinations of those trucks or vehicles.

22 **DOCUMENT REQUEST 12:**

23 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
24 procedures, if any, CONCERNING YOUR employees' access to ANY GHILOTTI BROS.
25 yard, including but not limited to the yards located at 525 Jacoby Street in San Rafael,
26 California, 4999 Lakeville Highway in Petaluma, California, 739 Cresco Court in Santa
27 Rosa, California, and 115 Brookside Drive in Richmond, California. This request
28 includes, but is not limited to, ANY and ALL DOCUMENTS CONCERNING the person

1 or persons responsible for unlocking or opening ANY gate, fence, or door at ANY
2 GHILOTTI BROS. yard, including but not limited to the yards located at 525 Jacoby
3 Street in San Rafael, California, 4999 Lakeville Highway in Petaluma, California, 739
4 Cresco Court in Santa Rosa, California, and 115 Brookside Drive in Richmond, California.

5 **DOCUMENT REQUEST 13:**

6 ANY and ALL DOCUMENTS that CONCERN the system(s) used by YOU to
7 dispatch laborers and equipment to construction job sites or projects.

8 **DOCUMENT REQUEST 14:**

9 ANY and ALL DOCUMENTS that CONCERN YOUR policies, practices, and
10 procedures CONCERNING assignment of laborers to construction job sites or projects.

11 **DOCUMENT REQUEST 15:**

12 ANY and ALL DOCUMENTS that CONCERN the system(s) used by YOU to
13 identify, track, or manage the physical locations of construction job sites or projects.

14 **DOCUMENT REQUEST 16:**

15 ANY and ALL DOCUMENTS that CONCERN the system(s) used by YOU to
16 identify, track, or manage the assignment of laborers to drive trucks owned, operated, or
17 used by YOU.

18 **DOCUMENT REQUEST 17:**

19 ANY and ALL DOCUMENTS that CONCERN the system(s) used by YOU to
20 identify, track, or manage the assignment of trucks owned, operated, or used by YOU to
21 construction job sites or projects and the times such trucks leave and return to any
22 GHILOTTI BROS. yard, including but not limited to the yards located at 525 Jacoby
23 Street in San Rafael, California, 4999 Lakeville Highway in Petaluma, California, 739
24 Cresco Court in Santa Rosa, California, and 115 Brookside Drive in Richmond, California.

25 ///

26 ///

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1 **DOCUMENT REQUEST 18:**

2 ANY and ALL DOCUMENTS identifying the address of any job site at which any
3 AFFECTED EMPLOYEE has worked during the CLASS PERIOD.

4

5 DATED: October 22, 2012

ROSEN BIEN GALVAN & GRUNFELD LLP

6 By: 

7 Gay Crosthwait Grunfeld

8 Attorneys for Plaintiffs

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Exhibit "F"

72794-001

1 GAY CROSTHWAIT GRUNFELD - 121944
2 KATHRYN G. MANTOAN - 239649
2 LAURA BOYSEN-ARAGON - 248083
3 JENNY S. YELIN - 273601
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12
13 Attorneys for Plaintiffs

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16

17 JOSE RAMIREZ, LUIS GOMEZ, and
18 MARCK MENA ORTEGA on behalf of
themselves and all persons similarly
situated,

19 Plaintiffs,

20 v.

21 GHILOTTI BROS., INC., a corporation;
22 GHILOTTI BROTHERS
CONSTRUCTION, INC., a corporation;
23 and DOES 1 to 50, inclusive,

24 Defendants.

25 Case No. C-12-4590-CRB

26 PLAINTIFF RAMIREZ'S REQUEST
FOR PRODUCTION OF
DOCUMENTS, SET ONE TO
DEFENDANT GHILOTTI BROS., INC.

27 PROPOUNDING PARTY: Plaintiff JOSE RAMIREZ

28 RESPONDING PARTY: Defendant GHILOTTI BROS., INC.

29 SET NUMBER: ONE (1)

30 PLAINTIFF RAMIREZ'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE TO DEFENDANT
GHILOTTI BROS., INC.

1 TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

2 Plaintiff Jose Ramirez hereby demands, pursuant to Rule 34 of the Federal Rules of
3 Civil Procedure, that Defendant Ghilotti Bros., Inc. respond under oath to the following
4 document requests, and produce and permit inspection or copying of the original
5 documents and materials described below at Rosen Bien Galvan & Grunfeld LLP, 30 days
6 after service of this demand.

7 A written response hereto is required of said Defendant within 30 days after service
8 of this demand, consisting of either a statement that Defendant will comply with this
9 demand or an objection to all or part of this demand.

10 In responding to this Request for Production of Documents, you are requested to
11 furnish all documents which are in your possession, custody or control, including
12 information in the possession of your attorneys, or other persons directly or indirectly
13 employed or retained by you, or connected with you or your attorneys, or anyone else
14 acting on your behalf or otherwise subject to your control.

15 Pursuant to Federal Rule of Civil Procedure 34(b)(2)(E), all responsive documents
16 are required to be produced either: (a) as they are kept in the usual course of business
17 (together with copies of any file labels or binder covers for the files or binders in which
18 they are maintained); or (b) organized and labeled to correspond with the specific request
19 to which they respond.

20 In responding to this Request for Production of Documents, if any responsive
21 document is maintained electronically, the document shall be produced on disc in native
22 format and with metadata intact. You are also requested to furnish print-outs of documents
23 which may not currently exist in "hard copy" paper form but which exist in electronic form
24 as electronic mail or as a document or file generated by word processing, data base or
25 spreadsheet software, and which are stored electronically on a "floppy" disc, a compact
26 disc, a zip drive, a personal computer hard drive, a network server, a back-up tape or disc,
27 or any other electronic medium.

28 If an electronically-generated document does not currently exist as a "hard copy"

1 and if it has been deleted from the hard drives of personal computers, you are requested to
 2 retrieve it from any other electronic medium (e.g., a network server or a backup tape disc)
 3 from which it is retrievable.

4 If you cannot respond to any document request in full, respond to the fullest extent
 5 possible, explain why you cannot respond to the remainder, and describe the nature of the
 6 documents which you cannot furnish.

7 **DEFINITIONS**

8 1. “GHILOTTI BROS.” or “DEFENDANT” means Ghilotti Bros., Inc.
 9 2. The term “YOU” or “YOUR” means GHILOTTI BROS. or anyone acting on
 10 its behalf.

11 3. “GHILOTTI BROTHERS CONSTRUCTION” means Ghilotti Brothers
 12 Construction, Inc.

13 4. The term “PLAINTIFF” means Plaintiff Jose Ramirez.

14 5. The term “CONCERNING” or “CONCERN” means referring to, alluding to,
 15 relating to, connected with, commenting upon, in respect of, about, regarding, discussing,
 16 reflecting, analyzing, evaluating, summarizing, touching upon, or constituting.

17 6. The term “CLASS PERIOD” means the period from June 27, 2008 through
 18 the present.

19 7. The term “AFFECTED EMPLOYEE” or “AFFECTED EMPLOYEES”
 20 refers to individuals employed by YOU in California now or during the CLASS PERIOD
 21 who work or have worked at a construction site or at the yard located at 525 Jacoby Street
 22 in San Rafael, California, or doing construction work as a laborer or in a similar capacity,
 23 even if on “light duty.”

24 8. The term “DOCUMENT” means any writing, however produced or
 25 reproduced, of every kind and regardless of where located, which is in YOUR possession,
 26 custody, or control; or in the possession, custody or control of any servant or agent of
 27 YOU or of YOUR attorneys. The terms include the following: electronically recorded
 28 information such as electronic mail (“email”), html files, databases, data processing cards

1 or tapes, computerized data, computer diskettes, or information otherwise contained on a
 2 computer's hard drive, disks or backup tapes; video tapes, audio tapes, view-graphs, or any
 3 information maintained on digital, electronic, magnetic or other media; and any other
 4 summary, schedule, memorandum, note, statement, letter, telegram, interoffice
 5 communication, report, diary, worksheet, list, graph, chart, or index, tape record, partial or
 6 complete report of telephone or oral conversation, transcript or minutes, compilation,
 7 tabulation, study, analysis, or other such writing or recording. The terms "DOCUMENT"
 8 and "DOCUMENTS" include any originals, all file copies, all other copies, no matter how
 9 prepared, and all drafts prepared in connection with such DOCUMENTS, whether or not
 10 used, as well as the file in which the DOCUMENTS are maintained. A draft or non-
 11 identical copy of a DOCUMENT, including a copy or duplicate of a DOCUMENT which
 12 has any nonconforming notes, marginal annotations or other markings, and any
 13 preliminary version, draft or revision of the foregoing, is a separate DOCUMENT within
 14 the meaning of these terms. The term "DOCUMENT" does not include any writing that
 15 constitutes a communication between YOU and YOUR attorneys. The term DOCUMENT
 16 includes any associated METADATA and any NATIVE FORMAT of the DOCUMENT.

17 9. The term "METADATA" means the data found within DOCUMENTS. It
 18 includes all electronically-stored information that describes or defines the DOCUMENT
 19 that is not generally visible in the ordinary electronic display or printing of the document.
 20 Common examples include comments, markups and revisions, author name, owner name,
 21 names of those who have edited the document, creation dates, edit dates, and other
 22 information, including but not limited to records of past versions and drafts.

23 10. The term "NATIVE FORMAT" as it relates to the production of electronic
 24 data means the file format in which the DOCUMENT is ordinarily read and written by its
 25 related software application. For example, a Microsoft Word 2003 document has a
 26 NATIVE FORMAT of .doc.

27 11. "ANY" and "ALL," as used herein, shall include "each" and "every" and are
 28 not to be construed to limit a request.

SCOPE OF DISCOVERY

Unless otherwise stated in a specific discovery request, these requests for the production of DOCUMENTS shall be deemed to cover the time period from January 1, 2008 to the present.

5 1. All requests phrased in either the disjunctive ("or") or conjunctive ("and") or
6 both, should be interpreted in the manner that makes YOUR response inclusive rather than
7 exclusive.

8 2. To the extent that any DOCUMENT requested herein is maintained by YOU
9 in electronic format, Plaintiffs request that such DOCUMENT be produced in its NATIVE
10 FORMAT (including METADATA).

11 3. To the extent that any DOCUMENT requested has already been produced in
12 response to a previous request, YOU need not produce the DOCUMENT a subsequent
13 time and may refer to it by Bates stamp number or other unique identifier.

OBJECTIONS AND DOCUMENTS WITHHELD

15 1. If YOU object to part of a DOCUMENT request and refuse to answer that
16 part, state YOUR objection and respond to the remaining portion of that DOCUMENT
17 request. If YOU object to the scope or time period of a DOCUMENT request and refuse
18 to respond for that scope or time period, state YOUR objection and respond to the
19 DOCUMENT request for the scope or time period YOU believe is appropriate.

20 2. With respect to any requested DOCUMENT that YOU refuse to produce in
21 response to these Requests for Production, please state:

- a. the full identity of the DOCUMENT including:
 - i. date of the DOCUMENT;
 - ii. its title (if any);
 - iii. its authors, addressees, recipients or parties;
 - iv. the nature of the DOCUMENT (e.g., letter, memorandum, etc.);
 - v. the individual or source from whom or which YOU obtained it;

and

- vi. its present location and identity of its custodian; whether YOUR objection or refusal is directed to the entire DOCUMENT or part thereof; if YOUR objection or refusal goes to part of the DOCUMENT, specify the specific part(s) of the DOCUMENT to which YOUR objection or refusal is directed; and the specific factual basis which gives rise to the objection or refusal and the specific legal ground on which the objection or refusal is based.

11 3. If any of the following requested DOCUMENTS cannot be located or
12 produced after exercising due diligence to secure the information, please so state and
13 respond to the extent possible, specifying YOUR inability to respond fully, and stating
14 whatever information YOU have CONCERNING the non-produced DOCUMENTS. If
15 YOUR response is qualified in any particular manner, please set forth the details of such
16 qualification.

DOCUMENTS TO BE PRODUCED

REQUEST NO. 1:

The complete personnel file of PLAINTIFF RAMIREZ.

REQUEST NO. 2:

21 ANY and ALL DOCUMENTS generated or maintained by PLAINTIFF RAMIREZ'S
22 supervisors about PLAINTIFF RAMIREZ.

23 | REQUEST NO. 3:

24 ANY and ALL DOCUMENTS that CONCERN amounts paid by YOU, including any
25 wages and benefits, to PLAINTIFF RAMIREZ.

26 | **REQUEST NO. 4:**

27 ANY and ALL DOCUMENTS describing, evidencing, or showing all wages, as
28 that term is defined in California Labor Code Sec. 200, et seq. paid to PLAINTIFF

1 RAMIREZ during the term of PLAINTIFF RAMIREZ's employment.

2 **REQUEST NO. 5:**

3 The names, addresses, and telephone numbers of all AFFECTED EMPLOYEES.

4 **REQUEST NO. 6:**

5 ANY and ALL written agreements between YOU and any AFFECTED
6 EMPLOYEE agreeing to on-duty meal periods.

7 **REQUEST NO. 7:**

8 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
9 procedures, if any, in effect from January 1, 2008 through December 31, 2010,
10 CONCERNING meal periods for AFFECTED EMPLOYEES.

11 **REQUEST NO. 8:**

12 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
13 procedures, if any, in effect from January 1, 2008 through December 31, 2010
14 CONCERNING how AFFECTED EMPLOYEES record time taken for meal periods.

15 **REQUEST NO. 9:**

16 ANY and ALL DOCUMENTS recording the times from January 1, 2008 through
17 December 31, 2010 at which AFFECTED EMPLOYEES took their meal periods.

18 **REQUEST NO. 10:**

19 ANY and ALL DOCUMENTS discussing, publicizing or defining the acceptable
20 locations at which AFFECTED EMPLOYEES could take their meal periods from
21 January 1, 2008 to December 31, 2010.

22 **REQUEST NO. 11:**

23 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices and
24 procedures, if any, for providing rest periods to AFFECTED EMPLOYEES during the
25 CLASS PERIOD.

26 **REQUEST NO. 12:**

27 ANY and ALL DOCUMENTS reflecting rest periods taken by AFFECTED
28 EMPLOYEES during the CLASS PERIOD.

1 **REQUEST NO. 13:**

2 ANY and ALL DOCUMENTS recording the times during the CLASS PERIOD at
3 which AFFECTED EMPLOYEES took rest periods.

4 **REQUEST NO. 14:**

5 ANY and ALL DOCUMENTS that constitute agreements between YOU and
6 AFFECTED EMPLOYEES to waive rest periods during the CLASS PERIOD.

7 **REQUEST NO. 15:**

8 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
9 procedures, if any, in effect since January 1, 2008 CONCERNING how AFFECTED
10 EMPLOYEES record time worked.

11 **REQUEST NO. 16:**

12 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
13 procedures for maintaining records of the hours worked by AFFECTED EMPLOYEES
14 during the CLASS PERIOD.

15 **REQUEST NO. 17:**

16 ANY and ALL electronic or other certified payroll reports for AFFECTED
17 EMPLOYEES during the CLASS PERIOD, including any prior archived information.

18 **REQUEST NO. 18:**

19 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
20 procedures during the CLASS PERIOD CONCERNING the ability of supervisors to alter
21 timekeeping records of AFFECTED EMPLOYEES.

22 **REQUEST NO. 19:**

23 ANY and ALL bulletins, posters, or other DOCUMENTS posted at any job site or
24 locations since January 1, 2008 CONCERNING the recordation of time worked.

25 **REQUEST NO. 20:**

26 ANY and ALL bulletins, posters, or other DOCUMENTS posted at any job site or
27 locations from January 1, 2008 to December 31, 2010 CONCERNING the recordation of
28 meal periods.

1 **REQUEST NO. 21:**

2 ANY and ALL bulletins, posters, or other DOCUMENTS posted at any job site or
3 locations since January 1, 2008 CONCERNING the recordation of travel time.

4 **REQUEST NO. 22:**

5 ANY and ALL collective bargaining agreements entered into by YOU covering any
6 AFFECTED EMPLOYEE and in effect since January 1, 2008.

7 **REQUEST NO. 23:**

8 ANY and ALL DOCUMENTS CONCERNING any written release of wage claims
9 executed by any AFFECTED EMPLOYEE for any wages earned during the CLASS
10 PERIOD.

11 **REQUEST NO. 24:**

12 ANY and ALL DOCUMENTS provided by YOU to any AFFECTED EMPLOYEE
13 since January 1, 2008, CONCERNING meal periods, rest breaks and/or recording time
14 worked for YOU.

15 **REQUEST NO. 25:**

16 ANY and ALL DOCUMENTS CONCERNING any complaints, whether internal,
17 civil, or administrative, lodged, filed, alleged, or settled against DEFENDANT since
18 January 1, 2008 related to the non-payment of wages, the failure to pay minimum wages,
19 and/or the failure to pay overtime wages (including grievances filed with any union).

20 **REQUEST NO. 26:**

21 ANY and ALL DOCUMENTS CONCERNING any complaints, whether internal,
22 civil, or administrative, lodged, filed, alleged, or settled against DEFENDANT from
23 January 1, 2008 through December 31, 2010 related to the failure to provide meal periods
24 (including grievances filed with any union).

25 **REQUEST NO. 27:**

26 ANY and ALL DOCUMENTS CONCERNING any complaints, whether internal,
27 civil, or administrative, lodged, filed, alleged, or settled against DEFENDANT since
28 January 1, 2008 related to the failure to provide rest periods (including grievances filed

1 with any union).

2 **REQUEST NO. 28:**

3 ANY and ALL DOCUMENTS CONCERNING any complaints, whether internal,
4 civil, or administrative, lodged, filed, alleged, or settled against DEFENDANT since
5 January 1, 2008 related to the failure to furnish accurate wage statements or employment
6 records (including grievances filed with any union).

7 **REQUEST NO. 29:**

8 ANY and ALL DOCUMENTS including electronic or other reports identifying the
9 address and/or number of any job site at which any AFFECTED EMPLOYEE has worked
10 during the CLASS PERIOD, including any prior archived information.

11 **REQUEST NO. 30:**

12 ANY and ALL documents CONCERNING the financial condition of GHIOTTI
13 BROS., including but not limited to, financial disclosures, internal controls, revenue
14 accounting practices, or revenue reporting, from the period of January 1, 2008 to the
15 present.

16 **REQUEST NO. 31:**

17 ANY and ALL DOCUMENTS CONCERNING the relationship between
18 GHIOTTI BROS., a corporation, and GHIOTTI BROTHERS CONSTRUCTION, a
19 corporation.

20 **REQUEST NO. 32:**

21 ANY and ALL organizational charts from January 1, 2008 to present used,
22 developed, or created for GHIOTTI BROS.

23 **REQUEST NO. 33:**

24 ANY and ALL DOCUMENTS recording the hours per day since January 1, 2008
25 for which AFFECTED EMPLOYEES were compensated.

26 **REQUEST NO. 34:**

27 ANY and ALL electronic records, in NATIVE FORMAT as maintained in the
28 ordinary course of business, recording the number of hours per day that each AFFECTED

1 EMPLOYEE worked since January 1, 2008.

2 **REQUEST NO. 35:**

3 ANY and ALL DOCUMENTS recording the times since January 1, 2008 during
4 which AFFECTED EMPLOYEES began and/or ended their shift. (This request includes,
5 but is not limited to, any electronic timekeeping or dispatch records, time cards, foreman
6 logs, and/or supervisor's logs.)

7 **REQUEST NO. 36:**

8 ANY and ALL DOCUMENTS CONCERNING the hours PLAINTIFF RAMIREZ
9 performed work for DEFENDANT before his shift start time and after his shift end time,
10 as those shift start and end times were stated by DEFENDANT, from January 1, 2008 to
11 the present.

12 **REQUEST NO. 37:**

13 ANY and ALL DOCUMENTS CONCERNING the hours PLAINTIFF RAMIREZ
14 spent driving any vehicle of DEFENDANT from January 1, 2008 to the present.

15 **REQUEST NO. 38:**

16 ANY and ALL DOCUMENTS CONCERNING the hours any AFFECTED
17 EMPLOYEE performed work for DEFENDANT before the shift start times and after the
18 shift end times of each AFFECTED EMPLOYEE, as those shift start and end times were
19 stated by DEFENDANT, from January 1, 2008 to the present. (This request includes, but
20 is not limited to, daily "Dispatch Reports," "Jobs Working" lists, and "Employee Work
21 Day" documents created with Preciseware AVD 1.0 or any other similar system).

22 **REQUEST NO. 39:**

23 ANY and ALL DOCUMENTS CONCERNING the hours any AFFECTED
24 EMPLOYEE spent driving any vehicle of DEFENDANT from January 1, 2008 to the
25 present, including but not limited to daily "Dispatch Reports," "Jobs Working" lists, and
26 "Employee Work Day" documents created with Preciseware AVD 1.0, or any other similar
27 system.

1 **REQUEST NO. 40:**

2 ANY and ALL DOCUMENTS CONCERNING PLAINTIFF RAMIREZ's duties
3 and responsibilities, if any, during his term of employment with DEFENDANT from
4 January 1, 2008 to the present.

5 **REQUEST NO. 41:**

6 ANY and ALL DOCUMENTS describing, evidencing, or showing job functions of
7 all positions held by PLAINTIFF RAMIREZ.

8 **REQUEST NO. 42:**

9 ANY and ALL liability insurance policies that may cover part or all of any
10 judgment that may be entered in this action, or may indemnify or reimburse payments
11 made to satisfy a judgment in this action.

12 **REQUEST NO. 43:**

13 ANY and ALL liability insurance policies that may cover part or all of any defense
14 of this action, or may indemnify or reimburse payments made to defend this action.

15 **REQUEST NO. 44:**

16 ANY and ALL DOCUMENTS describing, evidencing, or showing any payment or
17 incentive program to supervisors of DEFENDANTS related to labor and/or wage costs.

18 **REQUEST NO. 45:**

19 ANY and ALL employee manuals produced or used since January 1, 2008 that
20 govern the terms of employment of AFFECTED EMPLOYEES.

21 **REQUEST NO. 46:**

22 ANY and ALL DOCUMENTS that constitute, refer or relate to personnel guides,
23 employee handbooks, training materials, supervisory manuals, memos, directives and
24 similar DOCUMENTS that describe, embody, or otherwise reflect YOUR employment
25 policies, practices and procedures applied to AFFECTED EMPLOYEES during the
26 CLASS PERIOD.

27 **REQUEST NO. 47:**

28 ANY and ALL DOCUMENTS describing YOUR computer and computer systems,

1 including all servers, networks, and word processing, presentations, electronic mail, audio
2 and video files, personal information managers, calendars, databases, and spreadsheet
3 programs and other electronic data used by YOU to record, store, compute, analyze or
4 retrieve information referring or relating to the work or activities and compensation of
5 AFFECTED EMPLOYEES at any time during the CLASS PERIOD.

6 **REQUEST NO. 48:**

7 ANY and ALL DOCUMENTS CONCERNING the dates and terms of separation
8 from employment for all AFFECTED EMPLOYEES who terminated during the CLASS
9 PERIOD.

10 **REQUEST NO. 49:**

11 ANY and ALL DOCUMENTS that CONCERN amounts paid by YOU, including
12 any wages and benefits, to all AFFECTED EMPLOYEES during the CLASS PERIOD.

13 **REQUEST NO. 50:**

14 ANY and ALL DOCUMENTS describing, evidencing, or showing all wages, as
15 that term is defined in Labor Code Sec. 200, et seq. paid to all AFFECTED EMPLOYEES
16 during the term of each AFFECTED EMPLOYEE'S employment.

17 **REQUEST NO. 51:**

18 ANY and ALL DOCUMENTS showing the wage rates earned by all AFFECTED
19 EMPLOYEES throughout the CLASS PERIOD.

20 **REQUEST NO. 52:**

21 ANY and ALL DOCUMENTS CONCERNING ANY and ALL Employee
22 Satisfaction Surveys conducted by YOU during the CLASS PERIOD.

23 **REQUEST NO. 53:**

24 ANY and ALL DOCUMENTS distributed to employees of GHILOTTI BROS.
25 during the CLASS PERIOD, including but not limited to memoranda and newsletters,
26 which contain a "Safety Update" or ANY information CONCERNING equipment damage,
27 accident/incident reports, lost time due to injuries, timecards, or site inspections.

28

1 **REQUEST NO. 54:**

2 ANY and ALL DOCUMENTS distributed to employees of GHIOTTI BROS.
3 during the CLASS PERIOD, including but not limited to memoranda, CONCERNING
4 how employees should report concerns to the company, complaint procedures, and
5 retaliation.

6 **REQUEST NO. 55:**

7 ANY and ALL DOCUMENTS distributed to employees of GHIOTTI BROS.
8 during the CLASS PERIOD, including but not limited to memoranda, CONCERNING the
9 payment of bonuses and incentive pay.

10 **REQUEST NO. 56:**

11 For each day during the CLASS PERIOD, a list of each AFFECTED EMPLOYEE
12 working that day, including the AFFECTED EMPLOYEE'S name, job site location, and
13 assigned truck number, if applicable.

14 **REQUEST NO. 57:**

15 ANY and ALL surveillance videotapes or other recordings made during the CLASS
16 PERIOD showing ANY trucks owned, used, or operated by GHIOTTI BROS. entering or
17 exiting ANY GHIOTTI BROS. yard, including but not limited to the yard located at 525
18 Jacoby Street in San Rafael, California.

19 **REQUEST NO. 58:**

20 ANY and ALL DOCUMENTS CONCERNING the dates and times ANY trucks
21 owned, used, or operated by GHIOTTI BROS. entered or exited ANY GHIOTTI
22 BROS. yard, including but not limited to the yard located at 525 Jacoby Street in San
23 Rafael, California, and the assigned destinations of those trucks.

24 **REQUEST NO. 59:**

25 ANY and ALL DOCUMENTS CONCERNING YOUR policies, practices, and
26 procedures, if any, CONCERNING YOUR employees' access to ANY GHIOTTI BROS.
27 yard, including but not limited to the yard located at 525 Jacoby Street in San Rafael,
28 California. This request includes, but is not limited to, ANY and ALL DOCUMENTS

1 CONCERNING the person or persons responsible for unlocking or opening ANY gate,
2 fence, or door at ANY GHILOTTI BROS. yard, including but not limited to the yard
3 located at 525 Jacoby Street in San Rafael, California.

4 **REQUEST NO. 60:**

5 ANY and ALL DOCUMENTS identifying the AFFECTED EMPLOYEES YOU
6 authorized to drive ANY trucks owned, operated or used by GHILOTTI BROS., including
7 but not limited to drivers' identification cards, for ANY and ALL AFFECTED
8 EMPLOYEES YOU authorized to drive ANY trucks owned, operated, or used by
9 GHILOTTI BROS. during the CLASS PERIOD.

10 **REQUEST NO. 61:**

11 ANY and ALL DOCUMENTS (including logs and sign-out sheets) that show usage
12 of inventory AND equipment by AFFECTED EMPLOYEES during the CLASS PERIOD.
13

14 DATED: September 25, 2012

ROSEN BIEN GALVAN & GRUNFELD LLP
and
STEWART & MUSELL, LLP

17 By:

Jenny S. Yelin

19 Attorneys for Plaintiffs

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21 wmusell@stewartandmusell.com
22 Attorneys for Plaintiffs

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16
17 JOSE RAMIREZ, LUIS GOMEZ, and
18 MARCK MENA ORTEGA on behalf of
19 themselves and all persons similarly
situated,

20 Plaintiffs,

21 v.

22 GHILOTTI BROS., INC., a corporation;
23 GHILOTTI BROTHERS
CONSTRUCTION, INC., a corporation;
24 and DOES 1 to 50, inclusive,

Defendants.

Case No. C-12-4590-CRB

PLAINTIFF ORTEGA'S REQUEST
FOR PRODUCTION OF
DOCUMENTS, SET ONE TO
DEFENDANT GHILOTTI BROS., INC.

25
26 PROPOUNDING PARTY: Plaintiff MARCK MENA ORTEGA

27 RESPONDING PARTY: Defendant GHILOTTI BROS., INC.

28 SET NUMBER: ONE (1)

PLAINTIFF ORTEGA'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE TO DEFENDANT
GHILOTTI BROS., INC.

1 TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

2 Plaintiff Marck Mena Ortega hereby demands, pursuant to Rule 34 of the Federal
3 Rules of Civil Procedure, that Defendant Ghilotti Bros., Inc. respond under oath to the
4 following document requests, and produce and permit inspection or copying of the original
5 documents and materials described below at Rosen Bien Galvan & Grunfeld LLP, 30 days
6 after service of this demand.

7 A written response hereto is required of said Defendant within 30 days after service
8 of this demand, consisting of either a statement that Defendant will comply with this
9 demand or an objection to all or part of this demand.

10 In responding to this Request for Production of Documents, you are requested to
11 furnish all documents which are in your possession, custody or control, including
12 information in the possession of your attorneys, or other persons directly or indirectly
13 employed or retained by you, or connected with you or your attorneys, or anyone else
14 acting on your behalf or otherwise subject to your control.

15 Pursuant to Federal Rule of Civil Procedure 34(b)(2)(E), all responsive documents
16 are required to be produced either: (a) as they are kept in the usual course of business
17 (together with copies of any file labels or binder covers for the files or binders in which
18 they are maintained); or (b) organized and labeled to correspond with the specific request
19 to which they respond.

20 In responding to this Request for Production of Documents, if any responsive
21 document is maintained electronically, the document shall be produced on disc in native
22 format and with metadata intact. You are also requested to furnish print-outs of documents
23 which may not currently exist in "hard copy" paper form but which exist in electronic form
24 as electronic mail or as a document or file generated by word processing, data base or
25 spreadsheet software, and which are stored electronically on a "floppy" disc, a compact
26 disc, a zip drive, a personal computer hard drive, a network server, a back-up tape or disc,
27 or any other electronic medium.

28 If an electronically-generated document does not currently exist as a "hard copy"

1 and if it has been deleted from the hard drives of personal computers, you are requested to
 2 retrieve it from any other electronic medium (e.g., a network server or a backup tape disc)
 3 from which it is retrievable.

4 If you cannot respond to any document request in full, respond to the fullest extent
 5 possible, explain why you cannot respond to the remainder, and describe the nature of the
 6 documents which you cannot furnish.

7 **DEFINITIONS**

8 1. “GHILOTTI BROS.” or “DEFENDANT” means Ghilotti Bros., Inc.
 9 2. The term “YOU” or “YOUR” means GHILOTTI BROS. or anyone acting on
 10 its behalf.

11 3. “GHILOTTI BROTHERS CONSTRUCTION” means Ghilotti Brothers
 12 Construction, Inc.

13 4. The term “PLAINTIFF” means Plaintiff Marck Mena Ortega.

14 5. The term “CONCERNING” or “CONCERN” means referring to, alluding to,
 15 relating to, connected with, commenting upon, in respect of, about, regarding, discussing,
 16 reflecting, analyzing, evaluating, summarizing, touching upon, or constituting.

17 6. The term “CLASS PERIOD” means the period from June 27, 2008 through
 18 the present.

19 7. The term “AFFECTED EMPLOYEE” or “AFFECTED EMPLOYEES”
 20 refers to individuals employed by YOU in California now or during the CLASS PERIOD
 21 who work or have worked at a construction site or at the yard located at 525 Jacoby Street
 22 in San Rafael, California, or doing construction work as a laborer or in a similar capacity,
 23 even if on “light duty.”

24 8. The term “DOCUMENT” means any writing, however produced or
 25 reproduced, of every kind and regardless of where located, which is in YOUR possession,
 26 custody, or control; or in the possession, custody or control of any servant or agent of
 27 YOU or of YOUR attorneys. The terms include the following: electronically recorded
 28 information such as electronic mail (“email”), html files, databases, data processing cards

1 or tapes, computerized data, computer diskettes, or information otherwise contained on a
 2 computer's hard drive, disks or backup tapes; video tapes, audio tapes, view-graphs, or any
 3 information maintained on digital, electronic, magnetic or other media; and any other
 4 summary, schedule, memorandum, note, statement, letter, telegram, interoffice
 5 communication, report, diary, worksheet, list, graph, chart, or index, tape record, partial or
 6 complete report of telephone or oral conversation, transcript or minutes, compilation,
 7 tabulation, study, analysis, or other such writing or recording. The terms "DOCUMENT"
 8 and "DOCUMENTS" include any originals, all file copies, all other copies, no matter how
 9 prepared, and all drafts prepared in connection with such DOCUMENTS, whether or not
 10 used, as well as the file in which the DOCUMENTS are maintained. A draft or non-
 11 identical copy of a DOCUMENT, including a copy or duplicate of a DOCUMENT which
 12 has any nonconforming notes, marginal annotations or other markings, and any
 13 preliminary version, draft or revision of the foregoing, is a separate DOCUMENT within
 14 the meaning of these terms. The term "DOCUMENT" does not include any writing that
 15 constitutes a communication between YOU and YOUR attorneys. The term DOCUMENT
 16 includes any associated METADATA and any NATIVE FORMAT of the DOCUMENT.

17 9. The term "METADATA" means the data found within DOCUMENTS. It
 18 includes all electronically-stored information that describes or defines the DOCUMENT
 19 that is not generally visible in the ordinary electronic display or printing of the document.
 20 Common examples include comments, markups and revisions, author name, owner name,
 21 names of those who have edited the document, creation dates, edit dates, and other
 22 information, including but not limited to records of past versions and drafts.

23 10. The term "NATIVE FORMAT" as it relates to the production of electronic
 24 data means the file format in which the DOCUMENT is ordinarily read and written by its
 25 related software application. For example, a Microsoft Word 2003 document has a
 26 NATIVE FORMAT of .doc.

27 11. "ANY" and "ALL," as used herein, shall include "each" and "every" and are
 28 not to be construed to limit a request.

SCOPE OF DISCOVERY

Unless otherwise stated in a specific discovery request, these requests for the production of DOCUMENTS shall be deemed to cover the time period from January 1, 2008 to the present.

5 1. All requests phrased in either the disjunctive ("or") or conjunctive ("and") or
6 both, should be interpreted in the manner that makes YOUR response inclusive rather than
7 exclusive.

8 2. To the extent that any DOCUMENT requested herein is maintained by YOU
9 in electronic format, Plaintiffs request that such DOCUMENT be produced in its NATIVE
10 FORMAT (including METADATA).

11 3. To the extent that any DOCUMENT requested has already been produced in
12 response to a previous request, YOU need not produce the DOCUMENT a subsequent
13 time and may refer to it by Bates stamp number or other unique identifier.

OBJECTIONS AND DOCUMENTS WITHHELD

15 4. If YOU object to part of a DOCUMENT request and refuse to answer that
16 part, state YOUR objection and respond to the remaining portion of that DOCUMENT
17 request. If YOU object to the scope or time period of a DOCUMENT request and refuse
18 to respond for that scope or time period, state YOUR objection and respond to the
19 DOCUMENT request for the scope or time period YOU believe is appropriate.

20 5. With respect to any requested DOCUMENT that YOU refuse to produce in
21 response to these Requests for Production, please state:

- a. the full identity of the DOCUMENT including:
 - i. date of the DOCUMENT;
 - ii. its title (if any);
 - iii. its authors, addressees, recipients or parties;
 - iv. the nature of the DOCUMENT (e.g., letter, memorandum, etc.);
 - v. the individual or source from whom or which YOU obtained it;

and

2 vi. its present location and identity of its custodian;

3 b. whether YOUR objection or refusal is directed to the entire

4 DOCUMENT or part thereof;

5 c. if YOUR objection or refusal goes to part of the DOCUMENT,

6 specify the specific part(s) of the DOCUMENT to which YOUR

7 objection or refusal is directed; and

8 d. the specific factual basis which gives rise to the objection or refusal

9 and the specific legal ground on which the objection or refusal is

10 based.

11 6. If any of the following requested DOCUMENTS cannot be located or

12 produced after exercising due diligence to secure the information, please so state and

13 respond to the extent possible, specifying YOUR inability to respond fully, and stating

14 whatever information YOU have concerning the non-produced DOCUMENTS. If YOUR

15 response is qualified in any particular manner, please set forth the details of such

16 qualification.

DOCUMENTS TO BE PRODUCED

18 | REQUEST NO. 1:

19 The complete personnel file of PLAINTIFF ORTEGA.

20 | REQUEST NO. 2:

21 ANY and ALL DOCUMENTS generated or maintained by PLAINTIFF
22 ORTEGA'S supervisors about PLAINTIFF ORTEGA.

23 | REQUEST NO. 3:

24 ANY and ALL DOCUMENTS that CONCERN amounts paid by YOU, including
25 any wages and benefits, to PLAINTIFF ORTEGA.

26 | REQUEST NO. 4:

27 ANY and ALL DOCUMENTS describing, evidencing, or showing all wages, as
28 that term is defined in California Labor Code Sec. 200, et seq. paid to PLAINTIFF

1 ORTEGA during the term of PLAINTIFF ORTEGA's employment.

2 **REQUEST NO. 5:**

3 ANY and ALL DOCUMENTS CONCERNING the hours PLAINTIFF ORTEGA
4 performed work for DEFENDANT before his shift start time and after his shift end time,
5 as those shift start and end times were stated by DEFENDANT, from January 1, 2008 to
6 the present.

7 **REQUEST NO. 6:**

8 ANY and ALL DOCUMENTS CONCERNING the hours Plaintiff ORTEGA spent
9 driving any vehicle of DEFENDANT from January 1, 2008 to the present.

10 **REQUEST NO. 7:**

11 ANY and ALL DOCUMENTS CONCERNING PLAINTIFF ORTEGA's duties
12 and responsibilities, if any, during his term of employment with DEFENDANT from
13 January 1, 2008 to the present.

14 **REQUEST NO. 8:**

15 ANY and ALL DOCUMENTS describing, evidencing, or showing job functions of
16 all positions held by PLAINTIFF ORTEGA.

17

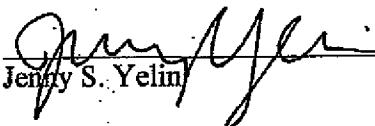
18 DATED: September 25, 2012

ROSEN BIEN GALVAN & GRUNFELD LLP
and
STEWART & MUSELL, LLP

20

21

By:

Jenny S. Yelin 

22

23 Attorneys for Plaintiffs

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12 Attorneys for Plaintiffs

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16

17 JOSE RAMIREZ, LUIS GOMEZ, and
18 MARCK MENA ORTEGA on behalf of
themselves and all persons similarly
situated,

19 Plaintiffs,

20 v.

21 GHILOTTI BROS., INC., a corporation;
22 GHILOTTI BROTHERS
CONSTRUCTION, INC., a corporation;
23 and DOES 1 to 50, inclusive,

24 Defendants.

Case No. C-12-4590-CRB

PLAINTIFF GOMEZ'S REQUEST
FOR PRODUCTION OF
DOCUMENTS, SET ONE TO
DEFENDANT GHILOTTI BROS., INC.

26 PROPOUNDING PARTY: Plaintiff LUIS GOMEZ

27 RESPONDING PARTY: Defendant GHILOTTI BROS., INC.

28 SET NUMBER: ONE (1)

PLAINTIFF GOMEZ'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE TO DEFENDANT
GHILOTTI BROS., INC.

1 TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

2 Plaintiff Luis Gomez hereby demands, pursuant to Rule 34 of the Federal Rules of
3 Civil Procedure, that Defendant Ghilotti Bros., Inc. respond under oath to the following
4 document requests, and produce and permit inspection or copying of the original
5 documents and materials described below at Rosen Bien Galvan & Grunfeld LLP, 30 days
6 after service of this demand.

7 A written response hereto is required of said Defendant within 30 days after service
8 of this demand, consisting of either a statement that Defendant will comply with this
9 demand or an objection to all or part of this demand.

10 In responding to this Request for Production of Documents, you are requested to
11 furnish all documents which are in your possession, custody or control, including
12 information in the possession of your attorneys, or other persons directly or indirectly
13 employed or retained by you, or connected with you or your attorneys, or anyone else
14 acting on your behalf or otherwise subject to your control.

15 Pursuant to Federal Rule of Civil Procedure 34(b)(2)(E), all responsive documents
16 are required to be produced either: (a) as they are kept in the usual course of business
17 (together with copies of any file labels or binder covers for the files or binders in which
18 they are maintained); or (b) organized and labeled to correspond with the specific request
19 to which they respond.

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21 document is maintained electronically, the document shall be produced on disc in native
22 format and with metadata intact. You are also requested to furnish print-outs of documents
23 which may not currently exist in "hard copy" paper form but which exist in electronic form
24 as electronic mail or as a document or file generated by word processing, data base or
25 spreadsheet software, and which are stored electronically on a "floppy" disc, a compact
26 disc, a zip drive, a personal computer hard drive, a network server, a back-up tape or disc,
27 or any other electronic medium.

28 If an electronically-generated document does not currently exist as a "hard copy"

1 and if it has been deleted from the hard drives of personal computers, you are requested to
 2 retrieve it from any other electronic medium (e.g., a network server or a backup tape disc)
 3 from which it is retrievable.

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 5 possible, explain why you cannot respond to the remainder, and describe the nature of the
 6 documents which you cannot furnish.

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 9 2. The term "YOU" or "YOUR" means GHILOTTI BROS. or anyone acting on
 10 its behalf.

11 3. "GHILOTTI BROTHERS CONSTRUCTION" means Ghilotti Brothers
 12 Construction, Inc.

13 4. The term "PLAINTIFF" means Plaintiff Luis Gomez.

14 5. The term "CONCERNING" or "CONCERN" means referring to, alluding to,
 15 relating to, connected with, commenting upon, in respect of, about, regarding, discussing,
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 20 refers to individuals employed by YOU in California now or during the CLASS PERIOD
 21 who work or have worked at a construction site or at the yard located at 525 Jacoby Street
 22 in San Rafael, California, or doing construction work as a laborer or in a similar capacity,
 23 even if on "light duty."

24 8. The term "DOCUMENT" means any writing, however produced or
 25 reproduced, of every kind and regardless of where located, which is in YOUR possession,
 26 custody, or control; or in the possession, custody or control of any servant or agent of
 27 YOU or of YOUR attorneys. The terms include the following: electronically recorded
 28 information such as electronic mail ("email"), html files, databases, data processing cards

1 or tapes, computerized data, computer diskettes, or information otherwise contained on a
2 computer's hard drive, disks or backup tapes; video tapes, audio tapes, view-graphs, or any
3 information maintained on digital, electronic, magnetic or other media; and any other
4 summary, schedule, memorandum, note, statement, letter, telegram, interoffice
5 communication, report, diary, worksheet, list, graph, chart, or index, tape record, partial or
6 complete report of telephone or oral conversation, transcript or minutes, compilation,
7 tabulation, study, analysis, or other such writing or recording. The terms "DOCUMENT"
8 and "DOCUMENTS" include any originals, all file copies, all other copies, no matter how
9 prepared, and all drafts prepared in connection with such DOCUMENTS, whether or not
10 used, as well as the file in which the DOCUMENTS are maintained. A draft or non-
11 identical copy of a DOCUMENT, including a copy or duplicate of a DOCUMENT which
12 has any nonconforming notes, marginal annotations or other markings, and any
13 preliminary version, draft or revision of the foregoing, is a separate DOCUMENT within
14 the meaning of these terms. The term "DOCUMENT" does not include any writing that
15 constitutes a communication between YOU and YOUR attorneys. The term DOCUMENT
16 includes any associated METADATA and any NATIVE FORMAT of the DOCUMENT.

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22 information, including but not limited to records of past versions and drafts.

23 10. The term "NATIVE FORMAT" as it relates to the production of electronic
24 data means the file format in which the DOCUMENT is ordinarily read and written by its
25 related software application. For example, a Microsoft Word 2003 document has a
26 NATIVE FORMAT of .doc.

27 11. "ANY" and "ALL," as used herein, shall include "each" and "every" and are
28 not to be construed to limit a request.

SCOPE OF DISCOVERY

Unless otherwise stated in a specific discovery request, these requests for the production of DOCUMENTS shall be deemed to cover the time period from January 1, 2008 to the present.

1. All requests phrased in either the disjunctive ("or") or conjunctive ("and") or both, should be interpreted in the manner that makes YOUR response inclusive rather than exclusive.

8 2. To the extent that any DOCUMENT requested herein is maintained by YOU
9 in electronic format, Plaintiffs request that such DOCUMENT be produced in its NATIVE
10 FORMAT (including METADATA).

11 3. To the extent that any DOCUMENT requested has already been produced in
12 response to a previous request, YOU need not produce the DOCUMENT a subsequent
13 time and may refer to it by Bates stamp number or other unique identifier.

OBJECTIONS AND DOCUMENTS WITHHELD

15 4. If YOU object to part of a DOCUMENT request and refuse to answer that
16 part, state YOUR objection and respond to the remaining portion of that DOCUMENT
17 request. If YOU object to the scope or time period of a DOCUMENT request and refuse
18 to respond for that scope or time period, state YOUR objection and respond to the
19 DOCUMENT request for the scope or time period YOU believe is appropriate.

20 5. With respect to any requested DOCUMENT that YOU refuse to produce in
21 response to these Requests for Production, please state:

- a. the full identity of the DOCUMENT including:
 - i. date of the DOCUMENT;
 - ii. its title (if any);
 - iii. its authors, addressees, recipients or parties;
 - iv. the nature of the DOCUMENT (e.g., letter, memorandum, etc.);
 - v. the individual or source from whom or which YOU obtained it;

1 and

2 vi. its present location and identity of its custodian;

3 b. whether YOUR objection or refusal is directed to the entire

4 DOCUMENT or part thereof;

5 c. if YOUR objection or refusal goes to part of the DOCUMENT, specify the specific part(s) of the DOCUMENT to which YOUR

6 objection or refusal is directed; and

7 d. the specific factual basis which gives rise to the objection or refusal and the specific legal ground on which the objection or refusal is based.

8 6. If any of the following requested DOCUMENTS cannot be located or
9 produced after exercising due diligence to secure the information, please so state and
10 respond to the extent possible, specifying YOUR inability to respond fully, and stating
11 whatever information YOU have concerning the non-produced DOCUMENTS. If YOUR
12 response is qualified in any particular manner, please set forth the details of such
13 qualification.

14 **DOCUMENTS TO BE PRODUCED**

15 **REQUEST NO. 1:**

16 The complete personnel file of Plaintiff LUIS GOMEZ.

17 **REQUEST NO. 2:**

18 ANY and ALL DOCUMENTS generated or maintained by PLAINTIFF GOMEZ'S
19 supervisors about PLAINTIFF GOMEZ.

20 **REQUEST NO. 3:**

21 ANY and ALL DOCUMENTS that CONCERN amounts paid by YOU, including
22 any wages and benefits, to PLAINTIFF GOMEZ.

23 **REQUEST NO. 4:**

24 ANY and ALL DOCUMENTS describing, evidencing, or showing all wages, as
25 that term is defined in California Labor Code Sec. 200, et seq. paid to PLAINTIFF

1 GOMEZ during the term of PLAINTIFF GOMEZ's employment.

2 **REQUEST NO. 5:**

3 ANY and ALL DOCUMENTS CONCERNING the hours PLAINTIFF GOMEZ
4 performed work for DEFENDANT before his shift start time and after his shift end time,
5 as those shift start and end times were stated by DEFENDANT, from January 1, 2008 to
6 the present.

7 **REQUEST NO. 6:**

8 ANY and ALL DOCUMENTS CONCERNING the hours Plaintiff LUIS GOMEZ
9 spent driving any vehicle of DEFENDANT from January 1, 2008 to the present.

10 **REQUEST NO. 7:**

11 ANY and ALL DOCUMENTS CONCERNING PLAINTIFF GOMEZ's duties and
12 responsibilities, if any, during his term of employment with DEFENDANT from
13 January 1, 2008 to the present.

14 **REQUEST NO. 8:**

15 ANY and ALL DOCUMENTS describing, evidencing, or showing job functions of
16 all positions held by PLAINTIFF GOMEZ.

17

18 DATED: September 25, 2012

ROSEN BIEN GALVAN & GRUNFELD LLP

and

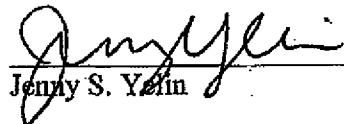
STEWART & MUSELL, LLP

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By:

Jenny S. Yarin



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23 Attorneys for Plaintiffs

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